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LETTER

OF

HON. M. F. CONWAY

TO

SENATOR DOOLITTLE,

OF WISCONSIN,

IN SUPPORT OF PRESIDENT JOHNSON'S POLICY OF RECONSTRUCTION.

RICHMOND:

PRINTED AT THE REPUBLIC BOOK AND JOB OFFICE.

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HON. J. E. CORNWAY

SENATOR

IN SENATE OF ILLINOIS



ALBANY

PRINTED BY THE STATE OF ILLINOIS

1877

June 14-1

LETTER

FROM

HON. M. F. CONWAY

TO

SENATOR DOOLITTLE, OF WISCONSIN.

RICHMOND, VA., August 25, 1865.

*Hon. J. R. Doolittle, United States Senator, Racine,
Wisconsin:*

Dear Sir: I have received your favor of the 19th instant, in which you request an expression of my views on the condition of the country. To your request I willingly respond, as I hold it to be the right of the public to be made acquainted with the views of any citizen of matters of such universal concern: But for this consideration, I might prefer silently to leave the adjustment of existing complications to the statesmen on whom the course of events has devolved the responsibilities of power; for as one of the millions, whose private fortunes are unimproved by the war: I am impelled, by my circumstances, whatever my taste or aptitude may be for participating in the political movements of the people, to seek, at least for the present, some more lucrative occupation of time and attention.

Surveying, then, all the circumstances of our present situation, I can see no better course for the people to pursue than cordially to unite, without regard to past differences, in concurrence with the President in carrying into effect the plan which he has indicated for restoring the States of the South to a practical enjoyment of their rights and fulfillment of their duties in the Union.

The President is obviously right in the opinion that, actual military conflict having ceased, as it has, the States lately in rebellion are States *in* the Union ; and from this, as a starting point, it seems to me that the path of duty lies clear. If in the Union at all, they are there on an equal footing with all the other States ; on no footing of inequality can they be there ; they have proportionately the same duties to perform and the same powers to exercise ; the State of South Carolina, for example, equally with the State of Massachusetts ; for such is the condition prescribed in the *Constitution*, the bond of union, the supreme law of the land, without which, or outside of which, I can see no legal ground upon which to stand for administering the Government.

The fact is immaterial to the issue, that at a time, under circumstances, and for an object, which no longer exists, the South was recognized as a belligerent Power. That it is now a belligerent Power cannot be said. It was not acknowledged to be belligerent as an independent nation, but as an organized mass of people in rebellion, within definite territorial limits, and capable, for a time, to set at defiance the regular authority of law. Of a rebellion, the object is to set aside the lawful government by substituting

another, and this it is the object of the lawful government to prevent. Success in either object ends the rebellion; in the one case, an independent nation arises; in the other, the legal authority is restored. Accordingly, when the rebellion in the South failed, by the dispersion of its armies, its belligerent character terminated, and the national authority resumed its former and proper legal effect in due constitutional form. All laws, ordinances, constitutions, or institutions not in the meantime regularly superseded or set aside, in due course of law, become again legally operative as at the starting point of the rebellion.

I am aware that this result would not have followed had the South acquired absolute independence by *its* arms and *our* acknowledgement, instead of a mere belligerent character; for in that case the object of the Government in prosecuting the war thereafter would not have been lawfully restricted to restoring its authority, defied by insurgents, but it might have continued the war to conquer an alien enemy, and success would have brought with it all the rights which accrue from conquest by the public law. But this is not the record which has been made; and in the case presented by the actual facts, the President has no discretionary power, but is required to recognize the States lately in rebellion as in the union of the Constitution equally with the other States.

The opinion is expressed by some that the appointment by the President of Provisional Governors for the States in question, clothed with defined powers, conflicts with his expressed views as to their present *status*. But, on correct principles, I do not think this opinion can be sustained. It is made his duty by the

Constitution to see that the laws of the United States are faithfully executed in all the States. These laws look to the co-operation of the regular State governments, in the absence of which it is impossible to see that they are faithfully executed. Such governments are necessary means to the end which he is required to attain. It cannot be doubted, therefore, that the President is authorized to take the necessary steps to enable the people of the States to reinvest themselves with the prescribed instrumentalities of State government. Not otherwise is it in his power to perform the duty directly enjoined on him in the Constitution.

Upon the same ground it is, as I understand, that military rule is maintained within the limits of these States. Without it, that order cannot be preserved in the communities necessary for the people to completely resume their State Governments for a resumption, in practice, of their Federal relations.

In fact, for the attainment of this end, it is necessary that the President and the people of the States shall move together in bringing into operation for each a State government of the character necessary for holding the constitutional relations with the General Government and the other States. The State government here indicated is the State Government of the Constitution—such as existed prior to the rebellion, except in so far as it may be affected by the abolition of slavery—a government at harmony with other parts of our complex system, and friendly to their successful working, each in its appropriate sphere—not an organization conflicting therewith and aiming to produce in them discord, confusion and eventual disruption—

as illustrated in the governments under which the seceded States carried on the rebellion— an organization incapable, from its *animus*, to hold the relations the Constitution contemplates to be held by the several States to each other and the General Government. Until the President and the people of the seceded States can bring about the rehabilitation for which the former has taken action by appointing the provisional officers before mentioned, the States must remain without the benefits of civil government. Should the efforts now being made fail to restore State governments, harmonising with the requirements of the Union under the Constitution, in consequence of the intervention, so as to get control of the movement among the people, of the same class of persons whose influence formerly perverted the State governments to rebel, their failure will leave the States under military rule, but will not prevent other and more successful movements being made thereafter for the same object. I do not, therefore, share the opinion expressed by some, that the President is bound, by his appointment of Provisional Governors, to recognize any form of State Government which may be proposed to be put in operation under their supervision or authority; nor do I suppose, from his public expressions, that he regards himself under any such obligations.

Touching the question of negro suffrage, whatever parties may individually desire as to the result, it seems to me that the President's proceedings and declared opinions are in accordance with the rule of the law, by which only his footsteps should be guided. He is not opposed to conferring on the colored man the elective franchise (at least I do not so understand

him), although he appears to be apprehensive that if done it would augment rather than diminish the political influence of the class of former slaveholders mainly responsible for the rebellion. But he opposes the proposition that this should be done by act of Congress, on the ground that to do this Congress has no right. Than the proposition that suffrage is a State institution, over which Congress has no lawful control, there is none more unquestionable. There is nothing in the Constitution giving Congress this power, but so far from this is the fact, that it expressly designates for electors of members the United States House of Representatives that body of persons upon whom the right of suffrage may be conferred by the States. Control over this subject has been exercised exclusively by the States from the beginning of our political system. In some cases they have even denied the elective franchise to citizens of the United States while extending it to emigrants from abroad, still unnaturalized; and to do this their right has been sustained by the highest judicial decision. I do not see, therefore, that, in this respect, the position the President occupies should occasion any complaint on the part of those who, in electing him to his high position, imposed on him the obligation faithfully to execute the laws.

Nevertheless, with regard to negro suffrage, I have no doubt something will be done, in due time, by the States themselves, commensurate with the requirements of justice, the necessities of the case, and the judgment of the world. The negro is now accepted by the people of these States as a slave no longer, but a free man. During the whole period of the war he has earned the consideration and respect of the whites

everywhere by his services, when brought into the field, and general good behavior in other conditions. He is not the enemy, but the friend of the whites among whom his lowly lot has been cast. By them his just claims will be considered, and, sooner or later, allowed ; sooner, perhaps, than is now generally believed.

It is not to be denied, however, that with the prevalence of the same feeling in the South with regard to the negro which has heretofore existed, no hope of this kind could for a moment be entertained. But by the influence of the great events of the last four years, and the wise, conciliatory and yet firm policy of the Government, the spirit prevailing in the South with respect to the colored man will be expected to change as effectually as its spirit has already changed in regard to the past institution of slavery. New views, new aims, new principles, new measures, and new men, are to take the place of the old in affairs of State. It is not to be apprehended, in my opinion, that the extreme and unjust prejudice against the negro, resulting from his former servile condition, will long survive this change, but it will perish, and, by orderly progress, the negro reach his natural position among men.

What action Congress will take, in view of the questions to come before it, when it meets, cannot, of course, be foretold : but it will not probably be found to conflict with the sound views of the President

The States lately in rebellion being now *in* the Union, it follows therefrom that they are each entitled, in common with their sister States, to that representation in Congress provided for in the Constitution and laws. Nevertheless, it is the right of Congress to

decide on the election and qualification of claimants of membership ; and, in exercising this right, it may practically exclude the whole or any number of persons who may present themselves, claiming seats from any of the States in question. They would then have to remain unrepresented until they should make choice of members according to law, or Congress should see fit to reverse its decision.

The popular character of our Government makes it necessary that Congress, if it refuses admission to the representatives of States, should proceed only on solid and defensible grounds, or else incur the risk of the consequences which an adverse decision at the ballot-box may entail. If ineligible persons are chosen, or persons come forward without evidence of legal election, they will be compelled to stand aside, and there will be no just cause of complaint. But if Congress should refuse to permit members to take seats because their States, in exercise of a right recognized by the Constitution, had decided to adopt a particular form of suffrage, the act will be unjustifiable, and the people would probably so declare it by their votes.

At this juncture of affairs it is to be hoped that a spirit of mutual forbearance and consideration will be cultivated, and in this view the States of the South may be expected to acquiesce in the proposition, which has recently been suggested, that the Constitution should be so amended as to adopt for the basis of Federal representation that class of the population only who may be at the time endowed with the elective franchise. The existing rule on the subject was adopted by the Convention which framed the Constitution in view of a condition of things which no longer exists

in consequence of the emancipation of the slaves. The practical effect of this rule, under existing circumstances, will be to augment the comparative Federal representation of the States lately in rebellion without corresponding increase of population, while their whole political power will still be engrossed by the portion of the population, however small, on which the States may see proper to confer the voting privilege. The injustice of this is apparent. It is not unreasonable to hope, therefore, that the amendment proposed, or some other yet to be devised for the same purpose, will be adopted without serious opposition from any quarter.

In view of the prospect of renewed peace and mutual respect and good will, which the successful carrying out of the measures of the President may be expected to develop, it is to be hoped that all parties will cordially exert themselves for that end. It is a consummation earnestly to be prayed for by all lovers of our country now established to be "one and indivisible." This once attained, and the various pursuits of productive industry resumed throughout the land, with the wealth that would flow into the public coffers, the national debt might be placed in course of liquidation, the derangement of the currency corrected, and much of the taxation which presses on the people withdrawn. Our country would then take, with regard to other nations, that commanding position to which it is entitled by its immense capacities for usefulness to them in peace, or destructiveness in war. With a thoroughly united people, it would then be in our power, should circumstances render it expedient, to make the Monroe doctrine effective, either by diplomacy or by arms,

and to exert again that controlling influence we justly claim in the affairs of this continent.

I have thus given you, in the briefest possible manner, my views of the state of public affairs. I should have preferred being more elaborate, but, in a communication of this kind, it is difficult to enlarge to the fullest extent on the many important and complex subjects which present themselves. Thanking you for the honor you have done me in deeming my views worthy your own or the public consideration,

I remain, very truly,

Your obedient servant,

M. F. CONWAY.

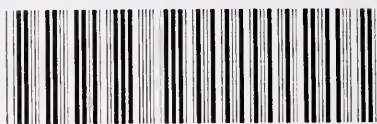
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